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DEPARTMENT OF STATE REVENUE

**Information Bulletin #37**  
**Sales Tax**  
**May 2016**  
**(Replaces Bulletin #37 dated June 2007)**  
**Effective Date: Upon Publication**

**SUBJECT:** Sales by and Registration for Out-of-State Merchants

**REFERENCES:** [IC 6-2.5-4-1](#); [IC 6-2.5-4-14](#); [IC 6-2.5-3-1](#); [IC 6-2.5-8-1](#)

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### SUMMARY OF CHANGES

Aside from nonsubstantive, technical changes, this bulletin is changed to clarify rules related to the registration requirements for retail merchants doing business with state educational institutions. In addition, the bulletin is updated to reflect statutory changes affecting renewal of registered retail merchant certificates.

#### I. Definition of Indiana Retail Merchant

A person is an Indiana Retail Merchant and must be registered with the department to collect Indiana Use Tax if the Retail Merchant is engaged in selling at retail for use, storage, or consumption in Indiana. Any person who is entering into a contract to provide tangible personal property to a state agency or a state educational institution is also a retail merchant. However, a person who is entering into a contract to provide tangible personal property to a state agency or a state educational institution only is required to register as an Indiana Retail Merchant if he or she meets the requirements otherwise set in this Bulletin.

#### II. Engaged in Business in Indiana

An out-of-state vendor is engaged in business in Indiana and must be registered as an Indiana Retail Merchant and charge Indiana Use Tax on tangible personal property delivered into Indiana, if the out-of-state vendor:

1. maintains an administrative office in Indiana;
2. maintains a research facility in Indiana;
3. displays merchandise at local trade fairs and exhibitions in Indiana;
4. maintains a factory or warehouse in Indiana; or
5. delivers goods into Indiana by the seller's truck where title and possession transfer in Indiana.

This list is not necessarily all-inclusive of potential activities that could result in an out-of-state vendor being required to register as an Indiana Retail Merchant and to collect Indiana Use Tax.

#### III. Not Engaged in Business in Indiana

An out-of-state vendor is NOT engaged in business in Indiana and therefore is NOT required to register as an Indiana Retail Merchant and charge Indiana Use Tax on tangible personal property delivered in Indiana where the out-of-state vendor's ONLY Indiana activity is any of the following:

1. owning Indiana realty for investment;
2. being "qualified" to do business in Indiana;
3. purchasing goods in Indiana;
4. conducting credit investigations;
5. delivering goods by common carrier or parcel post; or
6. being closely related to another person who maintains a place of business in Indiana.

If the out-of-state vendor has activities in Indiana other than the six specifically listed above, the vendor may be

required to charge Indiana Use Tax on tangible personal property delivered in Indiana.

#### **IV. Consigned Goods**

An out-of-state seller who consigns tangible personal property to an Indiana resident "on approval" is deemed to be engaged in business in Indiana and must register as an Indiana Retail Merchant to collect Indiana Use Tax on such transactions.

An out-of-state seller whose only business activity in Indiana is the consignment of tangible personal property to an Indiana resident on a "sale or return" basis is deemed not to be engaged in business in Indiana and is not required to register to collect Indiana Use Tax.

#### **V. Registration Procedures, Requirements and Privileges**

An Indiana Registered Retail Merchant's Certificate provides the registrant authority to collect Indiana Sales or Use Tax. In addition, the registrant is entitled to privileges of exemption from the tax on purchases of items to be used for an exempt purpose. The registration fee is \$25. The Indiana Registered Retail Merchant's Certificate generally is valid for two years from the date of issue. Renewal is automatic, and there is no charge if the Retail Merchant is current in filing returns and remitting its taxes due.

If the Retail Merchant is delinquent on its employee withholding taxes or sales or use tax and the Retail Merchant does not pay its delinquent employee withholding tax or sales or use tax liabilities, the department will notify the retail merchant at least sixty (60) days prior to the expiration of the Registered Retail Merchant's Certificate that the Registered Retail Merchant's Certificate will not be renewed.

If the Retail Merchant pays all delinquent employee withholding taxes or sales or use tax after notification by the department, but prior to the expiration of the Registered Retail Merchant's Certificate, the Registered Retail Merchant's Certificate will be renewed for one year instead of two years.

If the Retail Merchant does not pay all delinquent employee withholding taxes or sales or use tax after notification by the department, but prior to the expiration of Registered Retail Merchant's Certificate, the Registered Retail Merchant's Certificate will not be renewed and a \$25 fee for a new application will be assessed once all delinquent liabilities are paid.

In addition, if a Retail Merchant has a tax warrant for any tax liability, the Registered Retail Merchant's Certificate will not be renewed and a \$25 fee for a new application will be assessed once all delinquent liabilities are paid. This rule applies unless the taxpayer makes arrangements satisfactory to the department for the payment of the taxes due. However, all employee withholding taxes and sales or use tax must be paid even if a tax warrant has not been filed for the delinquent liability.

#### **VI. Purchaser's Use Tax Liability**

If an out-of-state vendor is not required to collect Indiana Use Tax, the Indiana purchaser is liable for the Indiana Use Tax on such purchases if the property is to be used, stored, or consumed in Indiana.

#### **VII. Voluntary Collection by Out-of-State Merchants**

An out-of-state merchant not required to register as an Indiana Retail Merchant may voluntarily register for an Indiana Registered Retail Merchant's Certificate. Holders of such certificates must collect and remit Indiana Use Tax to the department on sales of tangible personal property subject to use tax and subject to the same statutes, filing requirements, and procedures that apply to in-state Retail Merchants. Registration may be completed online at: [www.in.gov/dor/electronic](http://www.in.gov/dor/electronic).

Another method for an out-of-state merchant to register is through the Streamlined Sales & Use Tax Agreement website, [www.streamlinedsalestax.org](http://www.streamlinedsalestax.org). Registering on this website automatically registers the Retail Merchant to voluntarily collect tax for 23 full member and 1 associate member states. For more information concerning the Streamlined Sales & Use Agreement and voluntary registration, refer to Commissioner's Directive #27 at [www.in.gov/dor/reference/comdir/index.html](http://www.in.gov/dor/reference/comdir/index.html). No fee is charged for either method of registration by an out-of-state seller.

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*Posted: 06/29/2016 by Legislative Services Agency*  
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